

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CALVIN BANKHEAD,

Plaintiff,

v.

DETECTIVE PAUL BONESTEEL,
COLUMBIA HEIGHTS POLICE
DEPARTMENT, DETECTIVE GARY
PATTERSON, and ANOKA COUNTY
SHERIFF DEPARTMENT,

Defendants.

Case No. 17-cv-2989 (DSD/HB)

REPORT AND RECOMMENDATION

Plaintiff Calvin Bankhead, a prisoner at the United States Penitentiary in Florence, Colorado, commenced this action by filing a complaint seeking relief for alleged violations of his civil rights [Doc. No. 1]. Bankhead did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”) [Doc. Nos. 2-3]. On August 22, 2017, this Court ordered Bankhead to pay an initial partial filing fee [Doc. No. 4]. Bankhead was given twenty days from the date of the Order to pay, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b).

That deadline has now passed, and Bankhead has not paid the required filing fee. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court

has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order."); *Muhammad-Bey v. Craane*, No. 16-cv-1988 (PJS/SER), 2016 WL 6600491, at *2 (D. Minn. Nov. 7, 2016) (dismissing case without prejudice for failure to prosecute when plaintiff failed to pay the initial partial filing fee); *Allen v. Reid*, No. 16-cv-1602 (WMW/SER), 2016 WL 6093472, at *2 (D. Minn. Oct. 18, 2016) (same).

Based on the foregoing and all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: September 25, 2017

s/ Hildy Bowbeer

HILDY BOWBEER

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).